

The City Attorney
City of San Diego
MEMORANDUM
236-6220

DATE: January 28, 1988

TO: Doris Uzdavines, Employee Savings Plan
Administrator
FROM: City Attorney
SUBJECT: Notice of Levy from the Department of Internal
Revenue Service

On January 25, 1988 you asked this office to review a notice of levy served on your office by the Department of Internal Revenue Service (IRS) concerning the Supplemental Pension and Savings Plan (SPSP) account of a City employee. You asked us to advise you concerning your obligation to honor the notice of levy.

On January 26, 1988 I personally contacted L. Weinberg, the Revenue Officer assigned to this employee's case. Ms. Weinberg informed me that it was the IRS's position that an employee's voluntary and mandatory contributions and interest earned on those contributions in the employee's SPSP account are subject to levy by the IRS because that portion of the employee's SPSP account is an obligation currently owed to the taxpayer by The City of San Diego upon demand by the taxpayer. After reviewing Chapter 64 of the Internal Revenue Code, we believe this analysis to be correct. We therefore advise you to notify the concerned City employee of the notice of levy and of the City's intention to comply with in accordance with Chapter 64 of the Internal Revenue Code. The employee may then take whatever action he believes necessary.

If you have any further questions, please feel free to contact me.

JOHN W. WITT, City Attorney
By
John M. Kaheny, Deputy

JMK:mmm:357
MS-88-1